



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411

BOSTON, MASSACHUSETTS 02108

(617) 727-8352

(800) 462-OCPF

MICHAEL J. SULLIVAN  
DIRECTOR

July 2, 1996  
AO-96-21

Representative Valerie Barsom  
State House - Room 489  
Boston, MA 02133-1054

Re: Use of campaign funds to pay for district office

Dear Representative Barsom:

This letter is in response to your May 26, 1996 request for an advisory opinion regarding your political committee's proposed payment for the use of your private law office as a district office.

You have stated that you are an attorney and that you have a private law office<sup>1</sup> in the City of Springfield. On occasion, constituents will meet with you at your office.

Question

You have asked if you may use committee funds to pay a portion of the office rent. You estimate that "the percentage on average per month is 25% district office use and 75% law office use."

Answer

No.

Discussion

The campaign finance law and regulations recently adopted by this office authorize a state legislator's political committee to make expenditures relating to the provision of constituent services, including the reasonable costs of opening and maintaining a district office. See M.G.L. c. 55, s. 6 and 970 CMR 2.15(2).

The regulations authorize making payments for the "cost of leasing or renting office space" to be used for a district office. 970 CMR 2.15(2)(a)1.b. Although they contemplate the "opening and maintenance" of a separate district office, the regulations do not

---

<sup>1</sup> Section 8 of M.G.L. c. 55 prohibits the receipt by candidates and committees of anything of value from professional corporations ("PCs"). Although your law office does not appear to be a PC, a legislator who provides constituent services from a law office which is a PC must be particularly careful to ensure that fair market value is paid to the PC for anything of value provided by the PC. See AO-95-05.

permit the sharing of an office which is also used for the candidate's private business. See 970 CMR 2.15(2)(a)3 which states that "[n]o district office nor any of the district office's equipment shall be used for the personal use of a candidate or any other person."

The office has not previously considered whether a political committee may share in the rental payment of a candidate's law office where a portion of the law office will be used at times as a district office. The office has stated, however, that a political committee may pay for the pro rata portion of distinct office space such as a separate room or suite used almost exclusively for campaign purposes but not the pro rata portion of a candidate's private law office used in part for political purposes. See AO-86-08 and AO-83-02. In addition, the office has stated that candidates may share office space with other organizations if fair market value is paid for the use of such space. See IB-88-02.

As noted in IB-88-02, since leases between candidates and their political committees "do not reflect an 'arm's length' business relationship, . . . this office closely examines expenditures for the lease of office space" to ensure that they are bona fide." Such close scrutiny is especially appropriate since, like the costs of one's personal residence, the costs of office space initially obtained in connection with your law practice and now to be used as a district office "would exist regardless of the candidate's seeking election to public office." IB-88-02.

In determining whether an arrangement for the payment of a lease (or in this instance, a portion of lease which you are otherwise responsible for paying) is bona fide, the office considers a number of factors including whether the arrangement is commercially reasonable and consistent with ordinary business practices and whether the amount paid equals the fair market rent. As noted in AO-86-08, "office space which is used primarily for professional purposes such as practicing law, may not be paid for by funds of a political committee." Therefore, since you anticipate using the office for professional purposes 75 percent of the time, the use would be primarily personal. Therefore, committee expenditures to pay for the use described in your letter would not be consistent with the campaign finance law.

This opinion is based solely on the representations made in your letter and is limited to providing guidance within the context of M.G.L. c. 55.

Please do not hesitate to contact this office if you have any additional questions.

Sincerely,



Michael J. Sullivan  
Director